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Message Text

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L-03 NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SS-15 USIA-12

NEA-10 GAC-01 TRSE-00 MBFR-03 SAJ-01 OMB-01 RSR-01

ACDA-19 EURE-00 /140 W
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P R 031207 Z MAY 73
FM AMEMBASSY BONN
TO SECSTATE WASHDC PRIORITY 4792
INFO AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION BERLIN
USMISSION NATO BRUSSELS
USMISSION USUN NEW YORK

C O N F I D E N T I A L SECTION 01 OF 03 BONN 06324

E. O. 11652: GDS
TAGS: PFOR, PGOV, GW, GE, WB, UR, UN
SUBJECT: UN ENTRY OF TWO GERMAN STATES: SECURITY COUNCIL RESOLUTION

REF: A) BONN 5356; B) BONN 6285; C) BONN 6306; D) BONN 6139; E) USUN 1612

SUMMARY: DISCUSSION OF SECURITY COUNCIL RESOLUTION AT BONN GROUP MEETING ON MAY 2 CENTERED ON THE QUESTION OF WHETHER REFERENCE TO QD SHOULD BE MAINTAINED IN PRESENT DRAFT TEXT. THE FRENCH AND FONOFF REPS WERE STRONGLY OPPOSED TO INCLUSION OF SUCH A REFERENCE, ARGUING THAT IT HAD NO LEGAL RELEVANCE AND COULD DRAW A NEGATIVE REACTION FROM THE SOVIETS. THE UK REP SAID HIS AUTHORITIES BELIEVED SUCH A REFERENCE WOULD BE USEFUL, BUT WERE NOT IN FAVOR OF RISKING CONTROVERSY WITH THE SOVIETS OVER THE POINT. US REP PRESENTED USUN' S VIEWS
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ON NEED FOR SPECIFIC REFERENCE TO QD. IT WAS AGREED TO PRESENT VARIOUS POSITIONS TO CAPITALS FOR DECISION. END SUMMARY.

1. IN GENERAL DISCUSSION OF THE RESOLUTION, ALLIED AND FRG REPS AGREED THAT IT WOULD BE ADVANTAGEOUS TO HAVE ONE RESOLUTION FOR BOTH GERMAN STATES, BUT THAT IT WOULD NOT DAMAGE OUR INTERESTS IF THE GDR, AS EXPECTED, INSISTED ON SEPARATE TREATMENT. GENERAL CONSENSUS WAS, HOWEVER, THAT IF SEPARATE RESOLUTIONS WERE USED, WE SHOULD GUARD AGAINST NOTICEABLE DIVERGENCES IN THE TEXTS. IT WAS AGREED THAT CARE SHOULD BE EXERCISED IN PRIOR CONSULTATIONS AND IN DECIDING THE QUESTION OF SPONSOR-SHIP (SEE SEPTEL) TO INSURE TO THE EXTENT POSSIBLE THAT WE DID NOT LOSE CONTROL OF THE WORDING OF THE TEXT.

2. THE US REP DESCRIBED ARGUMENTS PRESENTED BY USUN IN FAVOR OF INCLUDING SOME REFERENCE TO THE QD IN THE RESOLUTION TEXT (REF E). THE UK REP (CROMARTIE) SAID HIS AUTHORITIES THOUGHT A REFERENCE IN THE RESOLUTION WOULD BE USEFUL, BUT HE DID NOT SHARE USUN' S VIEW ON THE REASONS WHY SUCH LANGUAGE WOULD BE DESIRABLE. IN THE BRITISH VIEW, THE VARIOUS PROCEDURES CONTAINED IN THE QD SCENARIO (BERLIN 1941, 11-6-72) WERE DESIGNED SPECIFICALLY TO PROVIDE BINDING PROOF THAT THE GDR WAS AWARE OF THE CONTENT OF THE QD AND ITS RELATIONSHIP TO UN MEMBERSHIP BY THE TWO GERMAN STATES BEFORE IT SUB-MITTED ITS APPLICATION. TRANSMITTAL BY THE FOUR POWERS OF A COPY OF THE QD TO THE UN COMPLETED THE LEGAL REQUIREMENTS BY PUTTING ALL UN MEMBERS ON RECORD THAT THE GDR WAS AWARE OF THESE OBLIGATIONS. IN THE BRITISH VIEW, THE ONLY PURPOSE SERVED BY INCLUSION OF REFERENCE TO THE FOUR POWER LETTER IN THE SECURITY COUNCIL RESOLU-TION WAS TO PROVIDE ADDED DEMONSTRATION THAT UN MEMBERS WERE AWARE OF THE QD AND THE PROCEDURES DEVISED TO MAKE IT VALID. IN THE CASE OF FUTURE DISPUTES, THE BRITISH WOULD NOT CONSIDER USING SUCH A REFERENCE AS A LEGAL BASIS FOR ARGUING THE ALLIED POSITION. THE GDR WOULD CONTINUE TO BE BOUND TO THE CONTINUATION OF QRR THROUGH THE QD AND THE PROCEDURES DEVISED TO TRANSMIT IT TO THE TWO GERMAN SIDES AND NOT BY ANYTHING WHICH WOULD BE

SAID OR DONE IN THE UN CONTEXT.

3. THE FRENCH REP (PLAISANT) AGREED WITH THESE VIEWS. HE RECALLED THAT CONSIDERATION HAD BEEN GIVEN TO INCLUD-ING A REFERENCE TO THE QD IN THE RESOLUTION IN THE DAYS BEFORE AGREEMENT HAD BEEN REACHED WITH THE SOVIETS ON PROCEDURES FOR TRANSMITTING THE DOCUMENT TO THE GERMAN

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SIDES. AT THAT TIME, THOUGHT HAD BEEN GIVEN TO USING THE SECURITY COUNCIL RESOLUTION AS THE MAIN SUPPORT FOR OUR POSITION ON THE CONTINUATION OF QRR. HOWEVER, NOW THAT SATISFACTORY PROCEDURES HAD BEEN WORKED OUT, I. E. BY HAVING THE QD TRANSMITTED TO THE TWO GERMAN SIDES, THEIR ACKNOWLEDGING RECEIPT THEREOF, AND HAVING IT SENT BY THE FOUR POWERS TO THE UN AND CIRCULATED AS A SECURITY COUNCIL DOCUMENT, PLAISANT THOUGHT THERE WAS NO REASON TO CONSIDER FURTHER REFERENCE IN THE RESOLU-

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TION. IN FACT, HE THOUGHT IT MIGHT BE HARMFUL, SINCE IT MIGHT LEAD TO DOUBTS AS TO THE VALIDITY OF THE STEPS ALREADY TAKEN.

4. THE FONOFF REP (BLECH) SAID CONSIDERABLE THOUGHT HAD BEEN GIVEN TO THIS QUESTION BY THE GERMAN SIDE. BLECH AGREED WITH THE LEGAL ARGUMENTATION PRESENTED BY THE UK REP AND SHARED THE VIEW OF THE FRENCH REP THAT

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SUCH A REFERENCE WAS UNNECESSARY AND COULD EVEN BE DAMAGING. BLECH SAID THE FONOFF POSITION WAS ALSO BASED ON THE FOLLOWING FURTHER CONSIDERATIONS:

A. THE FRG DID NOT THINK THAT THE SOVIETS WOULD AGREE TO A REFERENCE TO THE QD, HOWEVER VAGUE. THEY WOULD PROBABLY ADOPT THE FRENCH VIEW THAT THE MATTER HAD BEEN TAKEN CARE OF THROUGH CIRCULATION OF THE
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QD TO VARIOUS INTERESTED PARTIES.

B. THE FRG FEARED THAT INSERTING A REFERENCE TO THE QD WOULD BE A FURTHER DEPARTURE FROM NORMAL MEMBERSHIP PROCEDURES WHICH COULD ADD PECULIARITY TO THE FRG APPLICATION. AS STATED OFTEN IN THE PAST, THE FRG WANTED TO GUARD AGAINST SUCH ABNORMAL TREATMENT.

C. THE GERMAN SIDE STRONGLY OPPOSED INCLUSION IN THE UN CONTEXT OF SUCH A ONE- SIDED REFERENCE TO THE SPECIAL SITUATION IN GERMANY. INCLUSION OF THIS SORT OF REFERENCE COULD GIVE OTHER UN MEMBERS THE IMPRESSION THAT THE CONCEPT OF GERMANY AS A WHOLE WAS SEEN BY BOTH GERMAN STATES AS BEING EXPRESSED ONLY THROUGH THE FACT THAT THERE WAS A CONTINUATION OF QRR. BLECH SAID THAT THE SITUATION WOULD BE DIFFERENT IF OTHER ELEMENTS OF THE GERMAN SITUATION, SUCH AS THE LACK OF A PEACE TREATY OR THE RIGHT OF SELF- DETERMINATION, COULD ALSO BE INCLUDED. HOWEVER, EVERYONE KNEW THAT THIS WOULD BE IMPOSSIBLE. THUS, THE FRG WOULD PREFER NO REFERENCE TO THE QD AT ALL IN THE RESOLUTION. BLECH ASKED ALLIED REPS TO REPORT TO THEIR AUTHORITIES THAT THIS POINT WAS VERY IMPORTANT TO THE GERMAN SIDE.

5. THE UK REP SAID HIS AUTHORITIES DID NOT FEEL STRONGLY ABOUT THE NEED FOR INCLUSION OF A REFERENCE TO THE QD. THEY THOUGHT IT MIGHT BE USEFUL, BUT THEY WERE NOT READY TO MAKE A STRONG CASE FOR IT EITHER IN THE BONN GROUP OR WITH THE SOVIETS. CROMARTIE THOUGHT THE UK WOULD PROBABLY BE WILLING TO TAKE ACCOUNT OF FRG VIEWS AGAINST THE INCLUSION. THE US REP SAID HE HAD NOT YET RECEIVED FORMAL INSTRUCTIONS. HE UNDERTOOK TO REPORT THE BONN GROUP DISCUSSION AND ASK FOR DEPARTMENT' S VIEWS.

6. EMBASSY COMMENT: AS NOTED IN REF D WE TOO BELIEVE THAT THE VARIOUS STEPS TAKEN TO DEMONSTRATE THAT THE GDR IS AWARE OF THE CONTENT OF THE QD AND TO INFORM UN MEMBERS OF THIS SITUATION PROVIDE SUFFICIENT COVERAGE FOR OUR LEGAL POSITION FOR USE IN ANY FUTURE DISPUTES. IN ADDITION, THE QUADRIPARTITE AGREEMENT, WHICH WILL PRESUMABLY BE REGISTERED WITH THE UN, WILL ALSO PROVIDE

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COVERAGE FOR OUR POSITION IN BERLIN. WE, THEREFORE, SHARE THE FRG AND FRENCH VIEW THAT THERE IS LITTLE TO BE GAINED BY INCLUDING A REFERENCE TO THE QD IN THE SECURITY COUNCIL RESOLUTION.

7. MOREOVER, WE WOULD FORESEE SERIOUS DIFFICULTIES IN

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FM AMEMBASSY BONN
TO SECSTATE WASHDC PRIORITY 4794
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OBTAINING SOVIET AGREEMENT TO INCLUSION OF A QD REFERENCE IN THE RESOLUTION FOR THE GDR. IF, AS EXPECTED, SEPARATE RESOLUTIONS ARE USED FOR THE FRG AND GDR, WE WOULD THEN BE FACED WITH THE PROSPECT OF INCLUDING THE REFERENCE ONLY IN THE FRG RESOLUTION, AN UNACCEPTABLE PROPOSITION FOR THE FRG. A FURTHER POSSIBILITY IS THAT

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THE SOVIETS MIGHT REACT IN THE SAME MANNER AS THEY WOULD TO TOO EXPLICIT A REFERENCE TO QRR IN THE ALLIED SECURITY COUNCIL STATEMENTS, I. E. THEY MIGHT FEEL OBLIGED TO PUT ON THE RECORD THEIR OWN VIEW OF THE LEGAL SITUATION IN GERMANY.

8. WE ARE THUS FACED WITH THE PROSPECT OF CONSIDERABLE DEBATE WITH THE SOVIETS AND WITH AT LEAST TWO OF OUR ALLIES OVER A POINT WHICH, AS NOTED IN THE BONN GROUP DISCUSSION, WOULD BRING ONLY MARGINAL POLITICAL GAINS
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OR MIGHT IN FACT PUT IN QUESTION OTHER PROCEDURES ALREADY DEVISED TO ACHIEVE THE SAME END. FOR THESE REASONS, THE EMBASSY WOULD RECOMMEND AGAINST FURTHER ATTEMPTS TO INCLUDE A REFERENCE TO THE QD IN THE SECURITY COUNCIL RESOLUTION.

9. ACTION REQUESTED: DEPARTMENT' S VIEWS.
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